

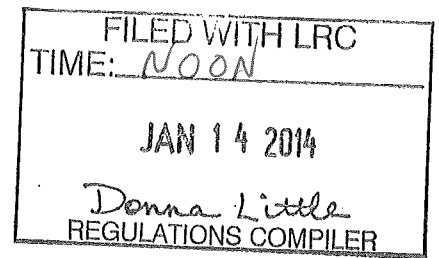
301 KAR 1:155

COMMERCIAL FISHING REQUIREMENTS

This administrative regulation establishes commercial fishing requirements, protects certain species from overharvest, and regulates the buying and selling of roe-bearing species of rough fish.

Significant Changes

This amendment restricts the daily commercial harvest for blue and flathead catfish over 35 inches and channel catfish over 28 inches to one fish of each species in the Ohio River and its tributaries open to commercial fishing. It also establishes a minimum size limit and an aggregate daily harvest limit on trophy catfish caught downstream of Cannelton Lock and Dam. It further creates an Ohio River Trophy Catfish Harvest Permit for harvest of trophy catfish downstream of Cannelton Lock and Dam, limits the number of permits to 50, and establishes minimum catfish harvest requirements in order for a commercial fisherman to qualify for a permit. In the event that the 50 permit quota is not reached, the amendment further creates a random electronic lottery for issuing the remaining permits. The amendment will also update and modify a commercial fishing harvest report form incorporated by reference, and limit the sale of nonresident commercial fishing licenses to only residents of states that allow Kentucky residents to purchase a nonresident commercial fishing license. Nonresidents who currently hold a valid Kentucky Commercial Fishing License who would be affected by this change will be grandfathered until they do not renew their commercial license in a license year.



1 TOURISM, ARTS AND HERITAGE CABINET

2 Kentucky Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 1:155. Commercial fishing requirements.

5 RELATES TO: KRS 150.010, 150.120, 150.170, 150.175, 150.445, 150.450(2), (3), 150.990,
6 217.015(20)

7 STATUTORY AUTHORITY: KRS 150.025(1), 150.175(3), 50 C.F.R. 17

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department

9 to promulgate administrative regulations to establish seasons for the taking of fish and wildlife,

10 to regulate bag limits, creel limits, and methods of take, and to make these requirements apply to

11 a limited area. KRS 150.175(3) authorizes the department to establish a commercial fishing

12 license that allows the taking and selling of rough fish. 50 C.F.R. Part 17 protects the shovelnose

13 sturgeon from harvest because of similarity of appearance with the endangered pallid sturgeon.

14 This administrative regulation establishes commercial fishing requirements, protects certain

15 species from overharvest, and regulates the buying and selling of roe-bearing species of rough

16 fish.

17 Section 1. Definitions. (1) "Buyer's permit" means a Roe-bearing Fish Buyer's Permit.

18 (2) "Commercial fisherman" means a person holding a valid resident or nonresident commercial
19 fishing license.

20 (3) "Harvester permit" means a Roe-bearing Fish Harvester's Permit.

21 (4) "Immediate family member" means a person's spouse, mother, father, daughter, brother,

sister, grandparent, or son.

(5) "Ohio River Trophy Catfish Harvest Permit" means a permit which allows a commercial fisherman to participate in a special catfish harvest program downstream of Cannelton Lock and Dam in the Ohio River and its tributaries open to commercial fishing.

(6) "Overflow lake" means a permanent or temporary body of water that receives overflow flood waters from an adjacent stream.

(7) [(6)] "Roe-bearing fish" means paddlefish, shovelnose sturgeon, and bowfin, regardless of the sex of the fish or the presence or absence of roe.

(8) [(7)] "Roe-bearing Fish Buyer's Permit" means a permit issued by the Department of Fish and Wildlife Resources that entitles the permittee to buy roe-bearing species or roe in accordance with this administrative regulation.

(9) [(8)] "Roe-bearing Fish Harvester's Permit" means a permit issued by the Department of Fish and Wildlife Resources to a licensed commercial fisherman that entitles the permit holder to harvest and sell roe-bearing species in accordance with this administrative regulation.

(10) [(9)] "Sport fish" means those species so designated by 301 KAR 1:060.

(11) "Trophy catfish" means a:

(a) Blue or flathead catfish that is a minimum of forty (40) inches in length; or

(b) Channel catfish that is a minimum of thirty (30) inches in length.

(12) [(10)] "Unlicensed helper" means a person without a commercial fishing license who is assisting a commercial fisherman.

(13) [(11)] "Unprocessed roe" means roe that has been removed from a roe-bearing fish by a food-processing plant prior to its sale at a roe-bearing fish buyer's facility.

Section 2. Nonresident Commercial Fishing Licenses. A nonresident commercial fishing license

1 shall only be issued to residents of states that offer nonresident fishing licenses to Kentucky
2 residents, except that a nonresident with a valid 2013 Kentucky nonresident commercial fishing
3 license shall be eligible to purchase a nonresident fishing license in subsequent license years
4 unless the nonresident fails to purchase the permit during any license year.

5 Section 3. Unlicensed Helpers. (1) A commercial fisherman shall not utilize more than two (2)
6 unlicensed helpers while actively fishing.

7 (2) A commercial fisherman shall ensure that an unlicensed helper complies with all boating
8 safety requirements established in KRS Chapter 235.

9 (3) An unlicensed helper shall:

10 (a) Be accompanied by a licensed commercial fisherman while using commercial fishing gear;
11 and

12 (b) Be permitted to transport roe or roe-bearing fish in the absence of a commercial fisherman
13 with a Fish Transportation Permit as established in 301 KAR 1:125.

14 (4) A commercial fisherman whose commercial fishing license has been suspended or revoked in
15 Kentucky or in another state shall not:

16 (a) Be listed as a helper by a licensed Kentucky commercial fisherman; or

17 (b) Assist a licensed Kentucky commercial fisherman in harvesting or transporting fish.

18 Section 4 [3]. Tagging and Using Commercial Gear. A commercial fisherman shall:

19 (1) Tag commercial fishing gear pursuant to 301 KAR 1:146;

20 (2) Not use commercial fishing gear within:

21 (a) Fifty (50) yards of the outlet or inlet of an overflow lake; or

22 (b) Fifty (50) yards of the mouth of a stream except the mouth of the Ohio River; and

23 (c) 200 yards of a dam, as established in KRS 150.445;

(3) Not use commercial nets from April 1 through October 31:

(a) In bays and inlets of Kentucky or Barkley Lakes; or

(b) Within a distance of 200 yards from the mouth of bays or inlets in Kentucky or Barkley Lakes; and

(4) Call the department at 800-858-1549 within twenty-four (24) hours if any commercial gear is:

(a) Lost;

(b) Stolen; or

(c) Irretrievable [~~Unretrievable~~] due to unforeseen circumstances.

Section 5. Special catfish harvest restrictions. (1) In the Ohio River and its tributaries open to commercial fishing:

(a) There shall be an unlimited harvest of:

1. Blue and flathead catfish that are less than thirty-five (35) inches in length; and

2. Channel catfish that are less than twenty-eight (28) inches in length; and

(b) There shall be a daily limit of one (1):

1. Blue and flathead catfish greater than thirty-five (35) inches in length; and

2. Channel catfish greater than twenty-eight (28) inches in length.

(2) A person with a valid commercial license shall obtain from the department a free Ohio River Trophy Catfish Harvest Permit in order to harvest multiple trophy catfish downstream of Cannelton Lock and Dam;

(a) The department shall issue a maximum of fifty (50) permits annually;

(b) Beginning in 2015, the department shall issue a permit to a commercial fisherman who:

1 1. Has reported a minimum harvest of 10,000 pounds of catfish from the Ohio River and its
2 tributaries open to commercial fishing in at least two (2) of the last three (3) years; and

3 2. Sends a written request to the department postmarked on or before March 10:

4 (c) In 2014, the department shall issue a permit to a commercial fisherman who:

5 1. Has reported a minimum harvest of 10,000 pounds of catfish from the Ohio River or its
6 tributaries open to commercial fishing in at least two (2) of the last three (3) years; and

7 2. Sends a written request to the department postmarked on or before ten (10) days following the
8 effective date of this administrative regulation;

9 (d) There shall be an unlimited daily harvest of catfish less than trophy size for each permit
10 holder;

11 (e) There shall be a daily harvest limit of four (4) trophy catfish in aggregate for each permit
12 holder;

13 (f) Beginning in 2015, if fifty (50) permits are not issued by March 15, then the department shall
14 conduct a random electronic lottery drawing for the remaining slots;

15 (g) A commercial fisherman shall apply for the lottery established in paragraph (f) of this
16 subsection by sending a written request to the department to be entered in the lottery postmarked
17 on or before March 10;

18 (h) In 2014, if fifty (50) permits are not issued within fifteen (15) days following the effective
19 date of this administrative regulation, then the department shall conduct a random electronic
20 lottery drawing for the remaining slots;

21 (i) A commercial fisherman shall apply for the lottery established in paragraph (h) of this
22 subsection by sending a written request to the department to be entered in the lottery postmarked
23 on or before ten (10) days following the effective date of this administrative regulation; and:

1 (j) If the number of applicants for any lottery is less than the number of available permits, then
2 the remaining permits will be distributed on a first-come first-serve basis.

3 Section 6 [4]. Roe-bearing Fish Harvester's Permit. (1) In order to retain his or her permit
4 privilege, a Roe-bearing Fish Permit holder shall submit to the department the following by
5 September 15:

6 (a) A completed Application for Roe-bearing Fish Harvester's Permit; and

7 (b) The permit fee as established in 301 KAR 3:022.

8 (2) A mailed application and fee shall be postmarked on or before September 15.

9 (3) Prior to being issued a harvester permit, a person shall possess a valid commercial fishing
10 license.

11 (4) A harvester permit shall not be sold to a resident of a state that will not sell a nonresident
12 harvester permit, or its equivalent, to Kentucky residents.

13 (5) The maximum number of resident Roe-bearing Fish Harvester's Permits available each year
14 shall be 101.

15 (6) The maximum number of nonresident Roe-bearing Permits available each year shall be
16 eighteen (18).

17 (7) A harvester permit holder shall be eligible to transfer permit privileges to:

18 (a) An immediate family member; or

19 (b) An unlicensed helper who:

20 1. Has been employed by the permit holder for a period of at least one (1) year in that capacity;

21 and

22 2. Complies with the requirements of this administrative regulation.

23 (8) To transfer a permit, the permit holder shall send to the department:

(a) A notarized letter documenting the name and relationship of the permit recipient; and

(b) If an unlicensed helper, proof of employment of the unlicensed helper for a period of one (1) year.

(9) Transferability shall be voided if a commercial fishing license or harvester permit is revoked or suspended as established in Section 12 of this administrative regulation.

Section 7 [5]. Roe-bearing Fish Harvester Permit Lottery. (1) There shall be a lottery for the unfilled harvester permits below the quota.

(2) A person shall apply for the lottery by submitting the following to the department by September 15:

(a) A completed Roe-bearing Fish Harvester Permit Application; and

(b) The appropriate permit fee as established in 301 KAR 3:022.

(3) A mailed application shall be postmarked by September 15 to be eligible.

(4) A person chosen in the lottery shall first obtain a commercial fishing license prior to obtaining a harvester permit.

(5) The department shall return all permit fees to those not chosen in the lottery.

(6) If the department receives fewer resident or nonresident harvester permit applications than the number of available permits, then completed applications received after September 15 shall be filled in the order they were received until the quota has been reached.

(7) If the number of permit applications received on a day after September 15 exceeds the number of permits available, then a second lottery shall be held to determine the recipients of the available permits.

Section 8 [6]. Fish Harvester Permit Requirements. (1) A harvester permit shall be required for a licensed commercial fisherman to harvest, transport, or sell roe fish or unprocessed roe.

(2) A permit shall not be required for a special commercial fishing permit holder to harvest and sell roe-bearing fish flesh or unprocessed roe from Kentucky and Barkley lakes during the special commercial fishing season, as established in 301 KAR 1:140.

(3) A harvester permit shall not be issued unless all applicable reports have been completed and submitted to the department, pursuant to Section 12 of this administrative regulation.

(4) A harvester permit holder shall:

(a) Have the permit in possession while:

1. Fishing for roe-bearing fish; and
2. Transporting or selling roe-bearing fish or unprocessed roe;

(b) Only sell, ship, barter, or provide harvested roe from roe-bearing fish to a Kentucky permitted buyer as established in Section 7 of this administrative regulation; and

(c) Possess a valid bill of lading if transporting unprocessed roe to a Kentucky permitted buyer.

Section 9 [7]. Buyer's Permit Requirements. (1) A buyer's permit shall be required to buy, sell, barter, receive, or ship unprocessed roe from roe-bearing fish harvested in Kentucky.

(2) A person shall apply for a buyer's permit by submitting a completed Application for Commercial Roe-bearing Fish Buyer's Permit along with the appropriate permit fee to the department, as established in 301 KAR 3:022.

(3) A buyer's permit holder shall:

(a) Not knowingly purchase illegally taken fish or unprocessed roe from any state;

(b) Have in possession a valid buyer's permit while purchasing, receiving, or transporting unprocessed roe;

(c) Maintain for a period of three (3) years an accurate record of all unprocessed roe purchased from roe fish harvesters in Kentucky;

(d) Maintain for a period of three (3) years an accurate record of all unprocessed roe purchased from roe fish harvesters in another state including:

1. Name, address, and telephone number of the seller;

2. License number of the seller; and

3. Number of pounds of unprocessed roe purchased;

(e) Sign the harvester permit holder's Daily Roe-bearing Fish Harvester's Transaction Report for each transaction prior to purchasing or receiving unprocessed roe from the harvester;

(f) Retain a copy of the Daily Roe-bearing Fish Harvester's Transaction Report for each transaction with a harvester permit holder for a period of three (3) years; and

(g) Allow a conservation officer access to all records and reports, as established in this section, upon request, during normal business hours.

Section 10 [8]. Commercial Fishing Season and Size Limits. (1) The commercial fishing season shall be open year round in the waters listed in 301 KAR 1:150 except for:

(a) Kentucky and Barkley lakes as described in 301 KAR 1:140;

(b) The shovelnose sturgeon season, which shall extend from October 15 through May 15 in the Ohio River Basin only; and

(c) The paddlefish season which shall extend from:

1. November 1 through April 30 in all waters open to commercial fishing, except Barkley and Kentucky Lakes, as specified in 301 KAR 1:140; and

2. November 1 through May 31 for commercial trotlines in all waters open to commercial fishing, except the Ohio and Mississippi Rivers.

(2) There shall not be a size limit on any commercially-harvested rough fish, except that a commercial fisherman shall only harvest:

(a) Shovelnose sturgeon between twenty-four (24) and thirty-two (32) inches, as measured from the tip of snout to the fork of the tail fin; and

(b) Paddlefish that are thirty-two (32) inches or greater, as measured from the beginning of the eye to the fork of the tail fin, except for Kentucky and Barkley lakes as specified in 301 KAR 1:140.

(3) A harvester or buyer permit holder shall not possess:

(a) Unprocessed Paddlefish roe after June 5; ~~or~~

(b) Unprocessed Shovelnose sturgeon roe after May 20; or

(c) Blue catfish, flathead catfish, and channel catfish as established in Section 5 of this administrative regulation, and measured by laying the fish flat on a ruler with the mouth closed and tail lobes squeezed together.

Section 11 [9]. Species Ineligible for Commercial Harvest. (1) A commercial fisherman shall not harvest, and shall immediately release the following species:

(a) Sport fish listed in 301 KAR 1:060;

(b) Pallid sturgeon, a federally-endangered species;

(c) Lake sturgeon;

(d) Shovelnose sturgeon caught in the Mississippi River; and

(e) All turtle species.

(2) A licensed commercial fisherman shall only sell roe-bearing fish or unprocessed roe from roe-bearing fish harvested by commercial fishing methods established in and permitted by 301 KAR 1:146.

Section 12 [10]. Tending Gear and Removing Fish. A commercial fisherman shall:

(1) Tend and remove the fish from:

- 1 (a) Hoop nets or slat traps at least once every seventy-two (72) hours; and
- 2 (b) Other commercial fishing gear at least once every twenty-four (24) hours;
- 3 (2) Not possess eggs of any species of fish outside of the fish's body cavity while on the water or
- 4 adjacent bank; and
- 5 (3) Remove commercial fishing gear from the water when finished fishing.
- 6 Section 13 [41]. Roe Fish Egg Checking Methodology. A commercial fisherman shall use a ten
- 7 (10) gauge or smaller needle to examine roe fish for the presence of eggs.
- 8 Section 14 [42]. Reporting, License and Permit Suspension, Renewal, and Revocation. (1) Every
- 9 licensed commercial fisherman shall submit a completed Monthly Report of Commercial Fish
- 10 Harvest in Kentucky by the tenth day of every month for the previous month's harvest even if no
- 11 harvest occurred.
- 12 (2) A harvester permit holder shall:
- 13 (a) Complete a Daily Roe-bearing Fish Harvester's Report for each day of the month that roe-
- 14 bearing fish are harvested or sold to a Kentucky permitted buyer; and
- 15 (b) Submit to the department all completed daily reports within a calendar month by the tenth
- 16 day of the following month in addition to the reporting requirements established in subsection (1)
- 17 of this section.
- 18 (3) If a buyer's permit holder completes any transactions in a given month, the permit holder
- 19 shall submit to the department a completed Monthly Commercial Roe-bearing Fish Buyer's
- 20 Report by the tenth day of the following month.
- 21 (4) A report that is being mailed to the department shall be postmarked on or before the tenth of
- 22 the month pursuant to subsections (1) through (3) of this section.
- 23 (5) The department shall issue a courtesy reminder letter to a holder of a commercial fishing

license, harvester permit, or buyer's permit who has failed to submit to the department a monthly report by the deadlines established in subsections (1) through (4) of this section.

(6) The department shall issue a warning letter to a license or permit holder who has twice failed to meet the reporting deadlines established in subsections (1) through (4) of this section during any given commercial fishing license year.

(7) The department shall suspend the commercial fishing license of a license or permit holder who has failed to meet reporting deadlines for three (3) or more months in a given license year until the license or permit holder submits to the department all required reports.

(8) The department shall suspend for a period of three (3) months the commercial fishing license of a license holder who has not met the reporting deadlines established in this section for four (4) or more times in a license year.

(9) If a three (3) month suspension extends into a new license year, subsequent delinquent reports shall result in additional three (3) month suspensions.

(10) The department shall not renew a commercial fishing license, harvester permit, or buyer's permit for a person who has not satisfied the reporting requirements of this administrative regulation.

(11) The department shall revoke the commercial fishing license, for a period of two (2) years, of a person who has been convicted of a federal commercial fishing violation or the following state violations involving commercial fishing:

(a) Use of illegal commercial fishing gear, pursuant to 301 KAR 1:146;

(b) Knowingly placing commercial fishing gear in a restricted area, pursuant to Section 3(2) and 3(3) of this administrative regulation;

(c) Harvesting prohibited species of fish;

(d) Commercially fishing in waters not open to commercial fishing, pursuant to 301 KAR 1:150;

or

(e) Knowingly falsifying commercial harvest data.

(12) The department shall revoke a buyer's permit, for a period of two (2) years, of a person:

(a) Convicted of federal commercial fishing violation; or

(b) Who falsified data on a Monthly Commercial Roe-bearing Fish Buyer's Report.

(13) A person may request an administrative hearing pursuant to KRS Chapter 13B if a permit has been:

(a) Denied;

(b) Suspended;

(c) Not renewed; or

(d) Revoked.

Section 15 [13]. Boundaries. The department shall make available on its Web site at fw.ky.gov the Global Positioning System coordinates detailing the Kentucky and Ohio border on the Ohio River, for download to personal devices.

Section 16 [14]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Commercial Roe-bearing Fish Harvester's Permit", 2008;

(b) "Application for Commercial Roe-bearing Fish Buyer's Permit", 2008;

(c) "Daily Roe-bearing Fish Harvester's Transaction Report", 2008;

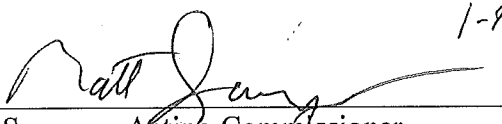
(d) "Monthly Commercial Roe-Bearing Fish Buyer's Report", 2008;

(e) "Monthly Report of Commercial Fish Harvest in Kentucky", 2014 [2008]; and

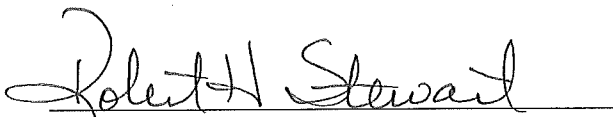
(f) "List of GPS coordinates for Ohio River Boundary with Ohio", 2008.

1 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
2 the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky
3 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Approved by the Fish and Wildlife Commission


Matt Sawyers, Acting Commissioner
Department of Fish and Wildlife Resources

1-9-14


Robert H. Stewart, Secretary
Tourism, Arts and Heritage Cabinet

Date: 1/13/14

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 21, 2014, at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation by February 28, 2014.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Rose Mack
Department of Fish and Wildlife Resources
Arnold L. Mitchell Building
#1 Sportsman's Lane
Frankfort, Kentucky 40601
(502) 564-7109, Ext. 4507 FAX (502) 564-9136
Email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

301 KAR 1:155 Commercial Fishing Requirements
Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes commercial fishing requirements, protects certain species from overharvest, and regulates the buying and selling of roe-bearing species of rough fish.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to effectively manage rough fish populations in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulation bag limits, creel limits, and methods of take, and to make these requirements apply to a limited area. KRS 150.175(3) authorizes the department to establish a commercial fishing license that allows the taking and selling of rough fish. 50 CFR 17 protects the shovelnose sturgeon from harvest in the Mississippi River because of similarity of appearance with the federally protected pallid sturgeon.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will carry out the purposes of the statutes and federal regulation by defining the requirements for commercial fishing in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment restricts the daily commercial harvest for blue and flathead catfish over 35 inches and channel catfish over 28 inches to one fish of each species in the Ohio River and its tributaries open to commercial fishing. It also establishes a minimum size limit and an aggregate daily harvest limit on trophy catfish caught downstream of Cannelton Lock and Dam. It further creates an Ohio River Trophy Catfish Harvest Permit for harvest of trophy catfish downstream of Cannelton Lock and Dam, limits the number of permits to 50, and establishes minimum catfish harvest requirements in order for a commercial fisherman to qualify for a permit. In the event that the 50 permit quota is not reached, the amendment further creates a random electronic lottery for issuing the remaining permits. The amendment will also update and modify a commercial fishing harvest report form incorporated by reference, and limit the sale of nonresident commercial fishing licenses to only residents of states that allow Kentucky residents to purchase a nonresident commercial fishing license. Nonresidents who currently hold a valid Kentucky Commercial Fishing License who would be affected by this change will be grandfathered until they do not renew their commercial license in a license year.

(b) The necessity of the amendment to this administrative regulation: A significant sport fishery for trophy catfish has evolved on the Ohio River and has created an allocation issue of these fish between the sport and commercial anglers that harvest the same resource. This amendment is needed to reduce harvest of trophy-sized catfish in the Ohio River. A recent, decreasing trend in the ratio of trophy catfish may be evidence of overharvest of larger catfish in the Ohio River above Cannelton Lock and Dam and its tributaries open to commercial fishing. Additionally, by limiting the number Quality Catfish Harvest Permits, this Department is lowering the probability

that many commercial fishermen will move their fishing effort from above Cannelton Lock and Dam to below it. The reciprocal non-resident license amendment is needed to promote in-kind commercial regulations that Kentucky residents (anglers and commercial fishermen) believe is fair. The additional information required on the Monthly Harvest Reports is necessary to increase the Department's knowledge of harvest demographics which are important to managing Kentucky's catfish fisheries open to commercial fishing.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: These amendments will affect all of the 293 licensed commercial fishermen at variable but unknown levels.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A commercial fisherman will be required to limit their harvest of trophy and quality-sized catfish, to report the number of catfish harvested, the number of trophy catfish harvested and released, and record the pool fished if fishing in the Ohio River and its tributaries open to commercial fishing. A nonresident commercial fisherman residing in a state that does not offer nonresident commercial licenses to Kentucky residents will be required to annually renew their licenses in order to continue to qualify for nonresident licenses.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Individual commercial fishermen will be economically affected at various levels which will be determined by the level of income derived from trophy catfish harvest. Typically, relatively few trophy catfish are harvested by established commercial fishermen selling to fish processors. Commercial fishermen targeting trophy catfish for pay lakes will be affected at a higher level, but these anglers do not typically rely solely on fishing for their income.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Commercial fishermen will benefit since a larger number of trophy catfish will survive and reproduce.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This regulation amendment will not result in increased costs to the department.

(b) On a continuing basis: There will be no additional cost on a continuing basis to the department.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees will be directly or indirectly established.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is applied to this amendment because nonresidents residing in states that do not allow Kentucky residents to purchase a nonresident commercial fishing license will not be able to purchase a Kentucky nonresident commercial license if they are a first time purchaser or if they allowed their license to lapse.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 301 KAR 1:155
Contact Person: Rose Mack
Phone number: (502) 564-3400

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources Divisions of Fisheries and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025 authorizes the department to set seasons, establish bag or creel limits, and to regulate the buying, selling, or transporting of fish and wildlife. KRS 150.175(3) authorizes the establishment of a commercial fishing license that allows the taking and selling of rough fish. 50 CFR 17 protects the shovelnose sturgeon from harvest in the Mississippi River because of similarity of appearance with the federally protected pallid sturgeon.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Revenue will not be generated by this administrative regulation for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Revenue will not be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? No additional cost will be incurred for the first year as the Department's Law Enforcement Division already enforces the regulation.

(d) How much will it cost to administer this program for subsequent years? No additional cost will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**Summary of Material Incorporated by Reference
and
Summary of Changes to Material Incorporated by Reference**

Summary of Material Incorporated by Reference

- (1) The "Monthly Report of Commercial Fish Harvest in Kentucky", 2014 is a one-page (two-sided) 11" x 17" form that every licensed commercial fisherman is required to complete and submit to the Kentucky Department of Fish and Wildlife Resources, Fisheries Division, by the tenth day of every month for the previous month's harvest even if no harvest occurred.

Summary of Changes to Material Incorporated by Reference

- (1) The "Monthly Report of Commercial Fish Harvest in Kentucky", 2014 is a one-page (two-sided) 11" x 17" form that every licensed commercial fisherman is required to complete and submit to the Kentucky Department of Fish and Wildlife Resources, Fisheries Division, by the tenth day of every month for the previous month's harvest even if no harvest occurred.
 - (a) The front side of the form was revised as follows:
 - (i) "Revised 2014" was added to the upper right-hand corner.
 - (ii) "WEIGHT (LBS) AND WHERE INDICATED NUMBER OF FISH HARVESTED EACH DAY" was deleted.
 - (iii) Also deleted were the following columns and headings:

"Channel catfish (LBS)
Blue catfish (LBS)
Flathead catfish (LBS)".
 - (iv) "Page 1" was added to the bottom right-hand corner.
 - (v) "Please use back page for Trophy Catfish Harvest" was added to the right-hand side.
 - (b) The back side of the form was revised as follows:
 - (i) 1. was amended by inserting the following after "for each month":

“licensed and submit to the Department by the 10th of following month. Mail reports to the Kentucky Department of Fish and Wildlife Resources, Fisheries Division, #1 Sportsman’s Lane, Frankfort, KY 40601.”

- (ii) 1. was also amended by deleting “10” and inserting “12”.
- (iii) 2. was deleted in its entirety.
- (iv) “3.” was deleted and renumbered as “2”.
- (v) The following was inserted after “gar, bowfin and eel.”:

“3. Record your take (harvest) of all fish regardless of whether or not you sold these fish.”

- (vi) 4. was deleted in its entirety.
- (vii) “5.” was deleted and renumbered as “4.”.
- (viii) 6. was deleted in its entirety.
- (ix) “7.” was deleted and renumbered as “5.”
- (x) “8.” was deleted and renumbered as “6.”
- (xi) “9.” was deleted and renumbered as “7.”
- (xii) 10. was deleted in its entirety.
- (xiii) “Revised 2008” was deleted.
- (xiv) “Page 2” was added to the bottom right-hand corner.
- (xv) Additional columns were added to include the following information that was deleted from the front of the form:

“Channel catfish (LBS)
Blue catfish (LBS)
Flathead catfish (LBS)”.

- (xvi) “Remarks” was added after the table.
- (xvii) Also added at the bottom of the form was the following:

“REPORT WILL BE RETURNED IF NOT COMPLETELY FILLED OUT”.